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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,641	08/18/2003	Mark Munch	COOL-00901	4440
7590	07/19/2004		EXAMINER	
Thomas B. Haverstock HAVERSTOCK & OWENS LLP 162 North Wolfe Road Sunnyvale, CA 94086			JIANG, CHEN WEN	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/643,641	MUNCH ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Chen-Wen Jiang	3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 June 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-132 is/are pending in the application.
- 4a) Of the above claim(s) 14-24,36-46,58-69 and 71-132 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13,25-35,47-57 and 70 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 3/22,3/25,6/3 04.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species X (Fig.10, claims 1-35,47-57 and 70) in the reply filed on 6/7/2004 is acknowledged. However, claims 14-24 have been withdrawn from consideration because these claims are not readable on Fig.10.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Regarding claim 4, the phrase "a minimum volume and a maximum volume" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by " a minimum volume and a maximum volume "), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

4. Regarding claims 2,26 and 48, the phrase "predetermined level" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

5. Regarding claims 13,24 and 57, the phrase "other suitable plastic materials" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

6. Regarding claim 70, the phrase "a minimum size and volume condition and a maximum size and volume condition" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by " a minimum volume and a maximum volume "), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

7. The following rejections are based on the best understanding of the claimed limitations.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1,4,5,6,7,8,25,28,29,30,31,47,50,51,52,53 and 70 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mitchell (U.S. Patent Number 6,253,836).

Mitchell discloses a flexible heat pipe structure and associated methods for dissipating heat in electronic apparatus. The heat transfer apparatus 50 includes first and second thermosyphoning heat pipes 52 and 54. Each of the heat pipes 52,54 (see Figs.3 and 4) has an outer metal pipe portion 56, a suitable wicking material 58 lining the interior of pipe portion. Sponge and form are wicking materials. The first heat pipe 52 has an evaporating end portion 60 and a condensing end portion. The second heat pipe 54 has an evaporating end portion 64 and a condensing end portion 68.

10. Claims 1,2,4,5,6,7,25,26,28,31,47,48,50 and 70 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kitano et al. (U.S. 2002/0075645).

Kitano et al. disclose a liquid cooling system. Referring to Figs.1-10, the system comprises a pump 1, heat radiation pipe 4, heat receiving jacket 2 and connector pipe 3. The connection has expandible portion as shown in Figs.2-10. FIG. 9 has soft rubber or resin to be used as the material of the connector pipe 3. The connector pipe 3 is made of the soft material, e.g.; rubber or resin. And, surface of the connector pipe 3 is covered with metal 18 around it, as shown in FIG. 10. The require volume change is function of the pressure. Therefore, fluid expansion is inherent in the calculation. Under the principals of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 3,27 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitano et al. (U.S. 2002/0075645).

The reference discloses the compression calculation claimed except for the 5 to 25 percent of the amount of fluid expansion. It is not patentable, however, to discover the optimum

of workable ranges of the expansion by routine experimentation. *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955), MPEP Section 2144.05(IIA).

13. Claims 8-13,29-35 and 51-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitano et al. (U.S. 2002/0075645).

Kitano et al. disclose the compressible materials used in the pipes. The applicant should note that the selection of known material based upon its suitability for the intended use is a design consideration within the skill of the art. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (703) 308-0275. The examiner can normally be reached on Tuesday-Friday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang  
Primary Examiner

